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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,828	07/30/2003	Teruaki Itoh	160-387 (AMK)	7283

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NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON, VA 22203

EXAMINER
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GORDON, BRIAN R

ART UNIT	PAPER NUMBER
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1743

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/05/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/629,828	<b>Applicant(s)</b> ITO, TERUAKI	
	<b>Examiner</b> Brian R. Gordon	<b>Art Unit</b> 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 2-13-07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed February 13, 2007 have been fully considered but they are not persuasive. While the previous 102 rejection has been withdrawn, claims 1 and 3 are presently rejected over the previous 103 rejection as previously directed to claims 2 and 4.

As previously acknowledged, Matsubara teaches all of the claimed elements except a centrifuge unit and stopper removing unit. However Sakazume et al. discloses the employment of such units.

It appears as if applicant arguments are directed to the location of the analytic apparatus and reanalysis control unit as reasons for distinguishing the claimed invention of that of the combined teachings of Matsubara and Sakazume.

It should be noted the two references are directed to processing samples with modular apparatuses that are very similar in structure. Furthermore the Patents are commonly owned by Hitachi, Ltd. As such, combining the teachings would have been so much more obvious. However Sakazume states the structure allows for samples to be efficiently processed by a plurality of sample processing units and the centrifuge allows for separating components by a difference in specific gravity thereof. As far as the cap removal unit it would have been obvious to include such a unit when capped vessels are subject to analysis. As to the location of the units it would have been obvious to one of ordinary skill in the art at the time of the invention to recognize the optimal placement of each in unit for efficient processing of the samples.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsubara et al., US 6,924,152 in view of Sakazume et al. US 6,444,171.

Matsubara et al. disclose an analysis apparatus 200 or 820 for analyzing a biochemical analysis item is performed by a pipetting device 202 or 840. The apparatus can select a re-measurement logic and/or analysis channel for the re-measurement automatically, before the re-measurement of the sample is performed according to a measurement result of the sample once measured.

The device comprises a transport system consisting of forward transporting line 60 and returning, backwards line 65, stockyard or standby unit 20.

Operations of the rack supply unit 10, the standby unit 20, the rack stoker 30, the transportation apparatus including the transportation line 60 and the returning line 65 are controlled by the total system control unit 50. A read result by the bar code reader 16 as an identification information reading unit for the sample rack and the sample bottle is also transmitted to the total system control unit 50. The total system control unit 50 comprises a memory unit 51, and connected to an operating unit 52 with a key board, a CRT 53 as a screen display unit, a printer 54 for output an analysis result of

each sample, and a floppy disk memory 55 storing an operating program of the analysis apparatus.

Since an item to be analyzed to each sample on each sample rack is pre-instructed from the operating unit 52 before starting analysis operation and stored in the memory unit 51, the total system control unit 50 compares read information by the bar code reader 16 with the stored analysis item information and can be determine an analysis unit to which each sample rack should be transported based on the comparison result (column 10, lines 44-65).

Matsubara et al. disclose all the elements as claimed except the inclusion of a centrifugal unit and a stopper removal unit.

Sakazume discloses a biological sample processing system device including multiple conveyor lines. The system allows for many numbers of samples to be efficiently processed by a plurality of sample processing units such as a centrifuge unit, a pipetter unit for pipetting child samples from a parent sample, analysis unit and the like, it is preferable to construct the system such that a sample rack carrying samples is supplied without intervals to a position where samples are to be processed thereby minimizing a sample waiting time for each sample processing unit (col. 1, line 30).

Three kinds of analysis units are used as sample processing units in the example of FIG. 1. However, other sample processing units can be included such as a centrifuge unit for separating components by a difference in specific gravity thereof, a cap opener unit (stopper removal unit) for opening the cap of a sample container having a cap, and

an aliquoter for pipetting a part of the sample from a parent sample container into a child sample container, they being disposed between the ordinary sample inlet unit 40 and the first analysis unit 10 in an arrangement of the invention for allowing the sample rack to be selectively transferred to each unit (column 6, lines 19-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Matsubara et. al to incorporate the centrifuge and cap removal units as taught by Sakazume et al. in order to process multiple biological samples such as urine and blood at a high-throughput rate.

### ***Conclusion***

3. No claims allowed.
4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, with 2nd and 4th F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



brg

BRIAN R. GORDON  
PRIMARY EXAMINER